## REMARKS

I.    STATUS OF THE CLAIMS

Claims 1-16, 18 and 21-25 are currently pending.

II.    REJECTION OF CLAIMS 1-4, 6, 11-16, 18, 21, 22, 24 AND 25 UNDER 35 USC 103
AS BEING UNPATENTABLE OVER SCHWARTZMAN (US PATENT 6,385,773)
IN VIEW OFCHEN (US PATENT 6,570,913)

In the present invention as recited, for example, in claim 15, a channel plan has predefined characteristics including at least a center frequency, a bandwidth and a power level of a carrier signal for each signal channel provided by a node of a network.

As recited, for example, in claim 15, communication of a plurality of signals communicated on the node is tested by conducting a test plan. As recited, for example, in claim 15, the test plan prescribes an automated test which compares actual measured values on each signal channel provided by the node with expected values indicated by the predefined characteristics of the channel plan, and thereby produces a test result.

As recited, for example, in claim 15, the test result is compared with a user definable alarm limit. As recited, for example, in claim 15, a failure time spectrum scan is performed on the node when the test result exceeds the alarm limit. As recited, for example, in claim 15, the failure time spectrum scan is representative of power amplitude versus frequency over the frequency spectrum of the node. As recited, for example, in claim 15, the power amplitude versus frequency over the frequency spectrum of the node is then displayed.

Therefore, the present invention as recited, for example, in claim 15, relates to the relationship of a channel plan and a test plan. The channel plan has predefined characteristics including at least a center frequency, a bandwidth and a power level of a carrier signal for each signal channel provided by a node of a network. The test plan prescribes an automated test which compares actual measured values on each signal channel provided by the node with expected values indicated by the predefined characteristics of the channel plan.

Please note that claim 15 is amended to recite that the channel plan has predefined characteristics including at least a center frequency, a bandwidth and a power level of a carrier signal for each signal channel provided by a node of a network. See, for example, FIG 3A and the disclosure on page 17, lines 1-4, of the specification. Similar amendments are made to the other independent claims.

Schwartzman discloses a spectrum analyzer for monitoring a node. See, for example, spectrum analyzer 204 and node 108 in FIG. 2A of Schwartzman.

FIG. 3 and the disclosure in column 10, line 15, through column 11, line 6, of Schwartzman, describes the use of spectrum analyzer 204 of Schwartzman. As indicated in these portions of Schwartzman, spectrum analyzer 204 is used to determine if a respective channel has too much noise. If there is too much noise, the system switches to a different channel.

For example, in operations 306 to 312 in FIG. 3 of Schwartzman, a detected bit error rate (BER) is compared against a threshold BER. If the detected BER is higher than the threshold BER, the noise level on the channel is too high. In this event, the spectrum analyzer 204 initiates a search for a cleaner channel, and a switch to the cleaner channel occurs. See, for example, column 10, lines 53-65, of Schwartzman.

Therefore, Schwartzman simply compares a detected BER to a threshold BER, and causes a switch to a cleaner channel when the detected BER is greater than the threshold BER.

No portion of Schwartzman discloses or suggests a channel plan has predefined characteristics including at least a center frequency, a bandwidth and a power level of a carrier signal for each signal channel provided by a node of a network as recited, for example, in the amended claim 15.

Moreover, no portion of Schwartzman disclose or suggests that a test plan prescribes an automated test which compares actual measured values on each signal channel provided by a node with expected values indicated by the predefined characteristics of the channel plan.

In summary, the present invention as recited, for example, in claim 15, relates to the relationship of a channel plan having specifically recited predefined characteristics and a test plan. Schwartzman does not disclose a channel plan having the specifically recited predefined characteristics, or the recited relationship of the channel plan and a test plan. Therefore, it is respectfully submitted that the fundamental nature of the present invention as recited, for example, in claim 15, is substantially different than that in Schwartzman.

Further, no portion of Schwartzman discloses or suggest that a failure time spectrum scan representative of power amplitude versus frequency over the frequency spectrum of the node is performed, and that the power amplitude versus frequency over the spectrum frequency of the node is displayed. Instead, as indicated above, Schwartzman simply switches channels when the BER is higher than a threshold level.

On page 4 of the outstanding Office Action, the Examiner concedes that Schwartzman

does not specifically state that a plot is generated and displayed. However, the Examiner cites FIG. 4A of Chen as disclosing a plot of power amplitude versus frequency.

It is respectfully submitted that the plot of Chen is not produced in response to a failure time spectrum scan. Instead, the plot in Chen is simply provided to illustrate the selection of the optimum frequency in Chen. See, for example, column 11, lines 6-10, of Chen. Therefore, the plot is Chen is provided for a significantly different reason that the failure time spectrum scan of various embodiments of the present invention. Moreover, as Schwartzman automatically switches channels when the BER is higher than a threshold level, it is respectfully submitted that there is no reason in Schwartzman to display a failure time spectrum scan. Therefore, it is respectfully submitted that there is no motivation in either Schwartzman or Chen to combine the references.

The above comments are specifically directed to claim 15. However, it is respectfully submitted that the comments would be useful in understanding various differences of various other rejected claims over Schwartzman and Chen.

Claim 6 specifically recites that the test is a test of total node power, carrier-to-noise power, percent availability, average noise power, channel power or burst counter and is dependent from claim 1, which recites that the channel plan has predefined characteristics including at least a center frequency, a bandwidth and a power level of a carrier signal for each of the signal channels. Therefore, these specifically recited tests are related to the predefined characteristics recited in claim 1. It is respectfully submitted that none of the references discloses or suggests any of these specific tests in combination with the specifically recited predefined characteristics.

In view of the above, it is respectfully submitted that the rejection is overcome.

III.   REJECTION OF CLAIMS 5, 7-10 AND 23 UNDER 35 USC 103
       AS BEING UNPATENTABLE OVER SCHWARTZMAN IN VIEW OF CHEN
       AND SPRENGER (US PATENT 5,861,882)

The above comments for distinguishing over Schwartzman and Chen also apply here, where appropriate.

In view of the above, it is respectfully submitted that the rejection is overcome.

IV.   REJECTION OF CLAIMS 1, 14, 15, 21, 24 AND 25 UNDER THE JUDICIALLY CREATED DOCTRINE OF OBVIOUSNESS-TYPE DOUBLE PATENTING IN VIEW OF US PATENT 6,522,987, IN VIEW OF CHEN

A Terminal Disclaimer is submitted herewith, to thereby overcome the rejection. The Terminal Disclaimer is signed by an attorney of record.

V.    REJECTION OF CLAIMS 1, 14, 15, 21, 24 AND 25 UNDER THE JUDICIALLY CREATED DOCTRINE OF OBVIOUSNESS-TYPE DOUBLE PATENTING IN VIEW OF US PATENT 6,741,947 IN VIEW OF CHEN

A Terminal Disclaimer is submitted herewith, to thereby overcome the rejection. The Terminal Disclaimer is signed by an attorney of record.

VI.   REJECTION OF CLAIMS 1, 14, 15, 21, 24 AND 25 UNDER THE JUDICIALLY CREATED DOCTRINE OF OBVIOUSNESS-TYPE DOUBLE PATENTING IN VIEW OF US PATENT 6,853,932 IN VIEW OF CHEN

A Terminal Disclaimer is submitted herewith, to thereby overcome the rejection. The Terminal Disclaimer is signed by an attorney of record.
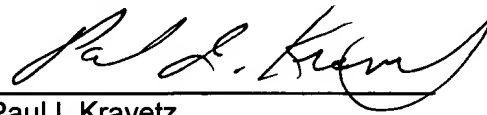
VII.  CONCLUSION

In view of the above, it is respectfully submitted that the application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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